



Postal Registration No. N. E.—771/2006-2008

The Gazette of Meghalaya

PUBLISHED BY AUTHORITY

No. 15 Shillong, Thursday, June 26th 2008, 5th Asadha, 1930 (S. E.)

PART - VII

GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATION

The 28th February, 2007.

No.LL(B)9/2006/160.—The following Acts passed by the Parliament and assent by the President of India and published in the Gazette of India, Extra Ordinary Part II, Section I on the date indicated below is hereby republished for general information.

Sl. No.	Name of Act	Act No. and Year	Date of Publication in the Gazette of India
1.	The Acturies Act, 2005.	Act No. 35 of 2006	28.8.2006
2.	The Government Securities.	Act No. 38 of 2006	31.8.2006

THE ACTUARIES ACT, 2006

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

INSTITUTE OF ACTUARIES OF INDIA

3. Incorporation of Institute.
4. Transfer of assets, liabilities, etc., of Actuarial Society.
5. Objects of Institute.
6. Entry of names in register.
7. Associates and fellows.
8. Honorary, affiliate and student members.
9. Certificate of practice.
10. Members to be known as Actuaries.
11. Disqualifications.
12. Composition of Council of Institute.
13. Annual general meetings.
14. Re-election to Council.
15. Settlement of dispute regarding election.
16. Establishment of Tribunal.
17. President, Vice-President and Honorary Secretary.
18. Resignation from membership and filling up of casual vacancies.
19. Functions of Council.
20. Staff, remuneration and allowances.
21. Committees of Council.
22. Finances of Council.

CHAPTER III

REGISTER OF MEMBERS

- 23. Register.
- 24. Removal of name from register.
- 25. Re-entry in register.

CHAPTER IV

MISCONDUCT

- 26. Disciplinary Committee.
- 27. Appointment of Prosecution Director.
- 28. Authority, Council, Disciplinary Committee and Prosecution Director to have powers of civil court.
- 29. Action by Council on disciplinary Committee's report.
- 30. Member to be afforded opportunity of being heard.
- 31. Professional or other misconduct defined.

(ii)

CHAPTER V

APPEALS

SECTIONS

- 32. Constitution of Appellate Authority.
- 33. Term of Office of Members of Authority.
- 34. Allowances, conditions of service of Members and procedure, etc., of Authority.
- 35. Officers and other staff of Authority.
- 36. Appeal to Authority.

CHAPTER VI**PENALTIES**

- 37. Penalty for falsely claiming to be a member, etc.
- 38. Penalty for using name of Institution, awarding degrees of actuarial science, etc.
- 39. Companies not to engage in actuarial practice.
- 40. Unqualified person not to sign documents.
- 41. Offences by companies.
- 42. Sanction to prosecute.

CHAPTER VII**QUALITY REVIEW BOARD**

- 43. Establishment of Quality Review Board.
- 44. Functions of Board.
- 45. Procedure of Board.
- 46. Terms and Conditions of Chairperson and Members of Board.
- 47. Expenditure of Board.

CHAPTER VIII**DISSOLUTION OF THE ACTUARIAL SOCIETY OF INDIA REGISTERED
UNDER THE SOCIETIES REGISTRATION ACT**

- 48. Dissolution of Actuarial Society of India.
- 49. Provisions respecting employees of dissolved society.

CHAPTER IX**MISCELLANEOUS**

- 50. Maintenance of more than one offices by Actuary.
- 51. Reciprocity.
- 52. Power of Central Government to issue directions.
- 53. Protection of action taken in good faith.
- 54. Members, etc., to be public servants.
- 55. Power of Central Government to make rules.
- 56. Power to make regulations.
- 57. Power of Central Government to issue directions for making or amending regulations.
- 58. Laying of rules and regulations.
- 59. Power to remove difficulties.

THE SCHEDULE.

THE ACTUARIES ACT, 2006

An

Act

to provide for regulating and developing the profession of Actuaries and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Actuaries Act, 2006.

Short title, extent
and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “Actuary” means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees’ benefits and such other risk management and investments and who is a fellow member of the Institute; and the expression “actuarial science” shall be construed accordingly;

(b) “Actuarial Society” means the Actuarial Society of India registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950;

21 of 1860.

(c) “appointed day” means the date on which the Institute is constituted under sub-section (1) of Section 3;

Bombay Act No.
XXXIX of 1950.

(d) “Authority” means the Appellate Authority referred to in Section 32;

(e) “Board” means the Quality Review Board constituted under sub-section (1) of Section 43;

(f) "Council" means the Council of the Institute as referred to in Section 12;

(g) "fellow" means a fellow member of the Institute;

(h) "Institute" means the Institute of Actuaries of India constituted under Section 3;

(i) "member" means an individual whose name appears in the register of members maintained by the Institute;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "President" means the President of the Council;

(l) "register" means the register of members maintained by the Institute under this Act;

(m) "specified" means specified by regulations made under this Act;

(n) "Tribunal" means a Tribunal established under sub-section (1) of Section 16;

(o) "Vice-President" means the Vice-President of the Council;

(p) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when individually or in partnership with Actuaries in practice as a member or an employee of a company, he, whether or not in consideration of remuneration received or to be received,—

(i) engages himself in actuarial profession; or

(ii) offers to perform or performs services involving the application of actuarial techniques in the fields of insurance, pension, investment, finance and management; or

(iii) renders such other services as, in the opinion of the Council, are or may be rendered by an actuary in practice; or

(iv) is in employment of a person engaged in one or more of the activities mentioned in clauses (i), (ii) and (iii) above, and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.—For the purposes of this sub-section, the expression "company" includes a public financial institution as defined in Section 4A of the Companies Act, 1956.

1 of 1956.

CHAPTER II

INSTITUTE OF ACTUARIES OF INDIA

Incorporation of
Institute.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, all persons whose names are entered in the register of the Actuarial Society at the commencement of this Act and all persons who may thereafter have their names entered in the register to be maintained under this Act, so long as they continue to have

their names borne on the register, are hereby constituted a body corporate by the name of the Institute of Actuaries of India and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

(3) The head office of the Institute shall be situated at such place as may be decided by the Central Government.

4. On the appointed day,—

(a) all the assets and liabilities of the Actuarial Society shall stand transferred to, and vested in, the Institute.

Transfer of assets,
liabilities, etc., of
Actuarial Society.

Explanation.—The assets of the Actuarial Society shall be deemed to include all rights and powers and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the said Society and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Actuarial Society immediately before that day, for or in connection with the purpose of the said Society, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Institute;

(c) all sums of money due to the Actuarial Society immediately before that day shall be deemed to be due to the Institute; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Actuarial Society immediately before that day may be continued or may be instituted by or against the Institute.

5. The objects of the Institute shall be—

Objects of Institute.

(a) to promote, uphold and develop the standards of professional education, training, knowledge, practice and conduct amongst Actuaries;

(b) to promote the status of the Actuarial profession;

(c) to regulate the practice by the members of the profession of Actuary;

(d) to promote, in the public interest, knowledge and research in all matters relevant to Actuarial science and its application; and

(e) to do all such other things as may be incidental or conducive to the above objects or any of them.

6. (1) Any of the following persons shall be entitled to have his name entered in the register, namely:—

Entry of names in
register.

(a) any person who immediately before the appointed day was an associate or a fellow (including an honorary fellow) of the Actuarial Society;

(b) any person who has passed the examination conducted by the Actuarial Society and has completed training either as specified by the said Society or as specified by the Council, except any such person who is not a permanent resident of India;

(c) any person who has passed such examination and completed such training, as may be specified for membership of the Institute;

(d) any person who has passed such other examination and completed such other training outside India as is specified as being equivalent to the examination and training specified under this Act for membership of the Institute:

Provided that in the case of any person belonging to any of the classes mentioned in this sub-section who is not permanently residing in India, the Central Government or the Council may impose such further conditions as it may deem necessary or expedient in the public interest.

(2) Every person mentioned in clause (a) of sub-section (1) may have his name entered in the register without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (b) (c) and (d) of sub-section (1) shall have his name entered in the register on an application being made and granted in the specified manner and on payment of such fees, as may be specified.

(4) The Council shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (a) of sub-section (1) entered in the register before the appointed day.

(5) Notwithstanding anything contained in this section, the Council may confer on any person honorary fellow membership, if the Council is of the opinion that such person has made a significant contribution to the profession of Actuary and thereupon the Council shall enter the name of such person in the register but such person shall not have any voting rights in any election or meetings of the Institute and shall not also be required to pay any fee to the Institute.

Associates and fellows.

7. (1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person other than a person to whom the provisions of sub-section (3) apply, shall, on his name being entered in the register, be deemed to have become an associate and as long as his name remains so entered, shall be entitled to use the letters "AIAI" after his name to indicate that he is an associate.

(3) Any person who was a fellow of the Actuarial Society and who is entitled to have his name entered in the register under clause (a) of sub-section (1) of Section 6 shall be entered in the register as a fellow.

(4) Any person whose name is entered in the register as fellow shall, so long as his name remains so entered, be entitled to use the letters "FIAI" after his name to indicate that he is a fellow.

Honorary, affiliate
and student
members.

8. (1) The Council may choose, in such manner as may be specified, any person of eminence in matters relating to and of interest to the profession of Actuary as an honorary member of the Institute provided that he is not practicing as an Actuary.

(2) Any person, who is a fellow member, or is a holder of membership considered equivalent to the fellow membership of the Institute, of any other institution similar to the Institute, whether within or outside India, may be admitted as an affiliate member for such period, and on such terms and conditions as may be specified.

(3) Any person who enrolls himself for examination of the Institute, and possesses such academic qualifications as may be specified, may be admitted as a student member of the Institute on such terms and conditions as may be specified.

(4) An honorary member or an affiliate member or a student member shall have no right to vote on any matter or resolution in any meeting of the Institute.

Certificate of
practice.

9. (1) No member of the Institute shall be entitled to practice unless he fulfils the qualifications as may be specified and obtains from the Council a certificate of practice.

(2) A member who desires to be entitled to practice shall make an application in such form and pay such annual fee for certificate of practice as may be specified and such fee shall be payable on or before the first day of April in each year.

(3) The certificate of practice obtained under sub-section (1) may be cancelled by the Council under such circumstances as may be specified.

10. Every member of the Institute in practice shall, and any other member may, use the designation of an Actuary and no member using such designation shall use any other description whether in addition thereto or in substitution therefor:

Members to be
known as
Actuaries.

Provided that nothing contained in this section shall be deemed to prohibit any such member from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as Actuaries.

11. Notwithstanding anything contained in Section 6, a person shall not be entitled to have his name entered in, or borne on, the register if he—

Disqualifications.

(a) has not attained the age of twenty-one years at the time of his application for the entry of his name in the register; or

(b) is of unsound mind and stands so adjudged by a competent court; or

(c) is an undischarged insolvent; or

(d) being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune and without any misconduct on his part; or

(e) has been convicted by a competent court whether within or outside India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disqualification; or

(f) has been removed from the membership of the Institute on being found on inquiry to have been guilty of a professional or other misconduct:

Provided that a person who has been removed from the membership for a specified period shall not be entitled to have his name entered in the Register until the expiry of such period.

12. (1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it by or under this Act.

Composition of
Council of Institute.

(2) The Council shall be composed of the following persons, namely:—

(a) a minimum of nine and not more than twelve persons from amongst fellow members to be elected by the fellow and the associate members of the Institute in such manner as may be prescribed:

Provided that a fellow of the Institute, who has been found guilty of any professional or other misconduct and whose name is removed from the Register or has been awarded penalty of fine, shall not be eligible to contest election,—

(i) in case of misconduct falling under the Schedule of this Act [except Part IV (B)], for a period of three years; or

(ii) in case of misconduct falling under Part IV (B) of the Schedule of this Act, for a period of six years, after the completion of the period of removal of name of the fellow from the Register or the payment of fine is made, as the case may be; and

41 Of 1999.

(b) (i) an officer not below the rank of Joint Secretary to the Government of India, to be nominated by the Central Government to represent the Ministry of Finance;

(ii) one person from the Insurance Regulatory and Development Authority constituted under the Insurance Regulatory and Development Authority Act, 1999 nominated by the Central Government; and

(iii) not more than two persons having knowledge in the field of life insurance, general insurance, finance, economics, law, accountancy or any other discipline which in the opinion of the Central Government, would be useful to the Council, to be nominated in such manner as may be prescribed:

Provided that till such time as the Council is constituted under this Act, the Executive Committee of the Actuarial Society shall discharge all the functions and shall have all the powers of the Council.

(3) No person holding a post under the Central Government or a State Government, as the case may be, shall be eligible for election to the Council under clause (a) of sub-section (2).

(4) One-third of the members of the Council referred to in clause (a) of sub-section (2) shall retire as soon as may be on the expiration of every second year by rotation but shall be eligible for re-election.

(5) Any person nominated under clause (b) of sub-section (2) shall hold office for a period of six years from the date of his nomination unless he is removed earlier by the Central Government and shall be eligible for re-nomination:

Provided that he shall be given an opportunity of being heard before such removal.

Annual general meetings.

13. The Council shall every year hold an annual general meeting of the Institute to elect its members under clause (a) of sub-section (2) of Section 12, or to discuss any matter which it deems fit, and not more than fifteen months shall elapse between the date of one annual general meeting of the Institute and that of the next:

Provided that from the appointed day the Institute may hold its first annual general meeting within a period of not more than eighteen months and if such general meeting is held within that period, it shall not be necessary for the Institute to hold any general meeting in that year:

Provided further that the Central Government may, for sufficient reasons, extend the time within which any general meeting shall be held.

Re-election to Council.

14. (1) Subject to the provisions of sub-section (2), a member of the Council elected under clause (a) of sub-section (2) of Section 12 shall be eligible for re-election but not for more than two consecutive terms.

(2) A member of the Council, who is or has been elected, as the President under sub-section (1) of Section 17, shall not be eligible for election or nomination as a member of the Council.

Settlement of disputes regarding election.

15. In case of any dispute regarding any election under clause (a) of sub-section (2) of Section 12, the aggrieved person may make an application within thirty days from the date of the declaration of the result of the election to the Council which shall forward the same forthwith to the Central Government.

Establishment of Tribunal.

16. (1) On receipt of any application under section 15, the Central Government shall, by notification, establish a Tribunal consisting of a Presiding Officer and two other Members to decide such dispute and the decision of such Tribunal shall be final.

(2) A person shall not be qualified for appointment,—

(a) as a Presiding Officer of the Tribunal unless he has been a member of the Indian Legal Service and has held a post in Grade I of the service for at least three years;

(b) as a Member unless he has been a member of the Council for at least one full term and who is not a sitting Member of the Council or who has not been a candidate in the election under dispute; and

(c) as a Member unless he holds the post of a Joint Secretary to the Government of India or any other post under the Central Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(3) The terms and conditions of service of the Presiding Officer and Members of the Tribunal, their place of meetings, remuneration and allowances shall be such as may be prescribed.

(4) The expenses of the Tribunal shall be borne by the Council.

17. (1) The Council shall, at its first meeting, elect three of its members from amongst persons referred to in clause (a) of sub-section (2) of Section 12, to be respectively the President, Vice-President and Honorary Secretary thereof, and as often as the office of the President, Vice-President and Honorary Secretary falls vacant, the Council shall choose one of the member in the same manner:

President Vice-President and Honorary Secretary.

Provided that the Chairperson of the Council of the Actuarial Society shall continue to hold such office as President after the commencement of this Act, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Officer of the Council.

(3) The President, the Vice-president or the Honorary Secretary shall hold office for a period of two years from the date on which he is chosen provided that he continues to be a member of the Council.

(4) The President and the Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(5) In the event of occurrence of any vacancy in the office of the President, the Vice-President shall act as the President until a new President is elected in accordance with the provisions of this section to fill such vacancy and enters upon his office.

(6) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the President resumes his duties.

18. (1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is accepted and notified by the Council.

Resignation from membership and filling up of casual vacancies.

(2) A member of the Council, other than a member nominated under clause (b) of sub-section (2) of Section 12 shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient reason from three consecutive meetings of the Council, or of any of the Committees constituted by the Council, and of which he is a member or he has been found guilty of any professional or other misconduct and awarded penalty of fine or if his name is, for any cause, removed from the register under the provisions of Sections 24 and 30.

(3) A casual vacancy in the office of a member of the Council shall be filled by fresh election or by nomination by the Central Government, as the

case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he was elected or nominated would have held that office:

Provided that no election shall be held to fill a casual vacancy occurring within one year prior to the date of the expiration of the term of such member.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of the Council.

19. (1) The duty of carrying out the functions under the provisions of this Act shall be vested in the Council. ‘

Functions of
Council.

(2) In particular and without prejudice to the generality of the foregoing power, the functions of the Council shall include—

(a) the holding of examination of the candidates for enrolment and specifying fees therefor;

(b) the specifying of qualifications for entry in the register;

(c) the recognition of foreign qualifications and training for the purposes of enrolment;

(d) the granting of or refusal to grant the certificate of practice under this Act;

(e) the maintenance and publication of a register of persons qualified to practice as Actuaries;

(f) the levy and collection of fees from members, students, examinees and other persons;

(g) the removal of names from the register and the restoration to the register of names which have been removed;

(h) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

(i) to issue guidelines for the observance of the members, including the student members;

(j) to receive gifts, grants, donations or benefactions from the Central or State Governments and to receive bequests, donations and transfer of movable or immovable properties from testators, donors or transferors, as the case may be;

(k) co-operating with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of members and generally in such manner as may be conducive to achievement of their common objects;

(l) instituting and awarding fellowships, scholarships, prizes and medals;

(m) giving gifts, grants, donations or benefactions to other institutions or bodies having objects similar to those of the Institute;

(n) the carrying out, by granting financial assistance to persons other than members of the Council, or in any other manner, of research in the actuarial science;

(o) the maintenance of a library and publication of books, journals and periodicals relating to actuarial science;

(p) the exercise of disciplinary powers conferred by this Act;

(q) establishing such regional council or councils as may be decided from time to time and fixing their headquarters; and

(r) doing all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

Staff, remuneration and allowances..

20. (1) For the efficient performance of its functions, the Council may—

(a) appoint an Executive Director, a Treasurer and such other officers and employees as it deems necessary and fix their salaries, fees, allowances and other conditions of service; and

(b) fix the allowances of the President, the Vice-President, the Honorary Secretary and other members of the Council and its Committees, in such manner as may be specified.

(2) The Executive Director of the Council shall be entitled to participate in the meetings of the Council but shall not be entitled to vote thereat.

Committees of Council.

21. (1) The Council may constitute such committees from amongst its members, and co-opt therein persons who are not members of the Institute, as it deems necessary for the purpose of carrying out the provisions of this Act:

Provided that the number of co-opted members shall not exceed one-third of the total membership of the committee.

(2) Every committee constituted under this section shall elect its own Chairman: Provided that—

(i) where the President is a member of such committee, he shall be the Chairman of such committee, and in his absence, the Vice-President, if he is a member of such committee, shall be its Chairman; and

(ii) where the President is not a member of such committee but the Vice-President is a member, he shall be its Chairman.

(3) The committees shall exercise such functions and be subject to such conditions as may be specified.

22. (1) There shall be established a fund under the management and control of the Finances of Council into which shall be paid all moneys (including donations and grants) received by the Council. Council and out of which shall be met all expenses and liabilities incurred by the Council.

Finances of Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any security as it may deem prudent consistent with the considerations of security of such investments and maximum returns thereon.

Explanation.— For the purposes of this sub-section, the expression “securities” shall have the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956, as amended from time to time.

(3) The Council shall keep proper accounts of the fund distinguishing capital account from revenue account.

38 of 1949. (4) The annual accounts of the Institute shall be subject to audit by a Chartered Accountant in practice within the meaning of the Chartered Accountants Act, 1949 to be appointed annually by the Council:

Provided that no member of the Council who is a Chartered Accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the Gazette of India, a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the Central Government and to all the members of the Institute.

2 of 1934. (6) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934, or from any public financial institution—

(a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other asset, for the time being belonging to it; or

(b) for the purpose of meeting current liabilities, pending the receipt of income, by way of temporary loan or overdraft.

1 of 1956. *Explanation.*—The expression “public financial institution” means a financial institution specified in section 4 A of the Companies Act, 1956.

CHAPTER III

REGISTER OF MEMBERS

23. (1) The Council shall maintain in the specified manner a register of the members of the Institute.

Register.

(2) The register shall include the following particulars about every member of the Institute, namely:—

(a) his full name, date of birth, domicile, residential and professional addresses;

(b) the date on which his name is entered in the register;

(c) his qualifications;

(d) whether he holds a certificate of practice; and

(e) any other particulars which may be specified.

(3) The Council shall cause to be published in such manner as may be specified a list of members as on the 1st day of April each year, and shall, if requested to do so by any such member, send him a copy of such list, on payment of such amount as may be specified.

(4) Every member of the Institute shall, on his name being entered in the register, pay such annual membership fee as may be specified by the Council.

- Removal of name from Register. **24.** The Council may, by order, remove from the register the name of any member of the Institute—
- (a) who is dead; or
 - (b) from whom a request has been received to that effect; or
 - (c) who has not paid any specified fee required to be paid by him; or
 - (d) who is found to have been subject to, at the time when his name was entered in the register, or who at any time thereafter has become subject to, any of the disqualifications mentioned in Section 11; or
 - (e) who for any other reason has ceased to be entitled to have his name borne on the register.
- Re-entry in register. **25.** The Council may re-enter the name of a member whose name has been removed from the register for reasons mentioned in clauses (b), (c), (d) and (e) of section 24, by an order, and on paying such fees, and after satisfying such conditions and requirements as may be specified.

CHAPTER IV

MISCONDUCT

- Disciplinary Committee. **26.** (1) The Council shall constitute a Disciplinary Committee consisting of the President or the Vice-President of the Council as the Presiding Officer and two members of the Council elected by the Council and two members to be nominated by the Central Government from amongst the persons of eminence having experience in the field of law, education, economics, business, finance, accountancy or public administration:
- Provided that the Council may constitute more regional Disciplinary Committees as and when it deems fit.
- (2) The Disciplinary Committee in making the inquiry under the provisions of this Act shall follow such procedure and submit the report to the Council within such time as may be prescribed.
- Appointment of Prosecution Director. **27.** (1) The Council may, by notification, appoint a Prosecution Director and such other employees to assist the Disciplinary Committee in making inquiries in respect of any information or complaint received by the Council under the provisions of this Act.
- (2) In order to make inquiries under the provisions of this Act, the Prosecution Director shall follow such procedure as may be prescribed.
- Authority, Council Disciplinary Committee and Prosecution Director to have powers of civil court. **28.** For the purposes of an inquiry under the provisions of this Act, the Authority, the Disciplinary Committee and the Prosecution Director shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—
- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) the discovery and production of any document; and
 - (c) receiving evidence on affidavit.
- Action by Council on Disciplinary Committee's report. **29.** (1) On receipt of a report from the Disciplinary Committee, if the Council is satisfied that the member of the Institute is guilty of any professional or other misconduct, it shall record its findings accordingly and shall proceed in accordance with the provisions of Section 30.

(2) In case the Council is not satisfied with the report of the Disciplinary Committee and is of the opinion that it requires further inquiry, it may refer the report again to the Disciplinary Committee for such further inquiry as may be directed through an order of the Council.

(3) If the Council disagrees with the findings of the Disciplinary Committee, it may direct the Prosecution Director or itself make an appeal to the Authority.

30. Where the Council is of the opinion that a member is guilty of a professional or other misconduct mentioned in the Schedule, it shall afford to the member a reasonable opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely:—

Member to be
afforded
opportunity of
being heard.

(a) reprimand the member; or

(b) remove the name of the member from the register permanently or for such period, as it thinks fit.

(c) impose such fine as it may think fit, which may extend to five lakh rupees.

Explanation.—For the purposes of this section, “member of the Institute” includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

31. For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission provided in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Disciplinary Committee or the Prosecution Director to inquire into the conduct of any member of the Institute under any other circumstances.

Professional or
other misconduct
defined.

CHAPTER V

APPEALS

39 of 1949.

32. The Appellate Authority constituted under sub-section (1) of Section 22A of the Chartered Accountants Act, 1949, shall be deemed to be the Appellate Authority for the purposes of this Act subject to the modification that for clause (b) of said sub-section (1), the following clause had been substituted, namely:—

Constitution of
Appellate Authority.

“(b) the Central Government shall, by notification, appoint two part-time Members from amongst the persons who have been members of the Council of the Institute of Actuaries for at least one full term and who are not sitting members of the Council;”.

33. A person appointed as a Member shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-seven years, whichever is earlier.

Term of office of
Members of
Authority.

38 of 1949.

34. The provisions of Section 22C, Section 22D and Section 22F of the Chartered Accountants Act, 1949 shall apply to the Authority in relation to allowances and terms and conditions of service of its Chairperson and members, and in discharge of its functions under this Act as they apply to it in the discharge of its functions under the Chartered Accountants Act, 1949.

Allowances,
conditions of
service of
Members and
procedure, etc., of
Authority.

35. (1) The Council shall make available to the Authority such officers and other staff members as may be necessary for the efficient performance of the functions of the Authority.

Officers and other staff of Authority.

(2) The salaries and allowances and conditions of service of the officers and other staff members of the Authority shall be such as may be specified.

36. (1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in Section 30, may, within ninety days of the date on which the order is communicated to him, prefer an appeal to the Authority:

Appeal to Authority.

Provided that the Authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

(2) The Authority may, after calling for the records of any case, revise any order made by the Council under section 30 and may—

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce or enhance the penalty imposed by the order;
- (c) remit the case to the Disciplinary Committee for such further inquiry as the Authority considers proper in the circumstances of the case; or
- (d) pass such other order as the Authority thinks fit:

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order.

CHAPTER VI

PENALTIES

Penalty for falsely claiming to be a member, etc.

37. Subject to the provisions of section 10, any person who,—

- (a) not being a member of the Institute,—
 - (i) represents that he is a member of the Institute in any of the manners mentioned in section 7; or
 - (ii) uses the designation “Actuary”; or
 - (iii) uses the letters “AIAI” or “FIAI” after his name; or
 - (iv) practises the profession of an Actuary; or
- (b) being a member of the Institute, but not having a certificate of practice, represents that he is in practice, or practises as an Actuary, shall be punishable on first conviction with fine which may extend to one lakh rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to two lakh rupees, or with both.

Penalty for using name of Institution, awarding degrees of actuarial science, etc.

38. (1) Save as otherwise provided in this Act, no person shall—

- (a) use a name or a common seal which is identical with the name or the common seal of the Institute or so nearly resembles it so as to deceive or as is likely to deceive the public; or

(b) award any degree, diploma or certificate or bestow any designation which indicates or purports to indicate the position or attainment of any qualification or competence in actuarialship similar to that of a member of the Institute; or

(c) seek to regulate in any manner whatsoever the profession of Actuaries.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings, which may be taken against him, be punishable with fine, which may extend on first conviction to fifty thousand rupees and on any subsequent conviction with imprisonment which may extend to one year, or, with fine which may extend to one lakh rupees, or with both.

(3) Nothing contained in this section shall apply to any University or other institution established by law or to any body affiliated to the Institute.

39. (1) No company, whether incorporated in India or elsewhere, shall practice as Actuaries.

Companies not to engage in actuarial practice.

(2) Any company contravening the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to ten thousand rupees, and on any subsequent conviction with fine which may extend to twenty-five thousand rupees.

40. (1) No person other than a fellow member of the Institute shall sign any document on behalf of an Actuary in practice or a firm of such Actuaries in his or its professional capacity.

Unqualified person not to sign documents.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to fifty thousand rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

41. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part

of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

42. No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

Sanction to prosecute.

CHAPTER VII

QUALITY REVIEW BOARD

43. (1) The Central Government shall, by notification, constitute a Quality Review Board consisting of a Chairperson and not more than four Members:

Establishment of Quality Review Board.

Provided that in case the Board is constituted with two Members, one each shall be nominated by the Council and the Central Government, respectively.

(2) The Chairperson and Members of the Board shall be appointed from amongst the persons of eminence having experience in the field of law, education, economics, business, finance, accountancy or public administration.

(3) Two Members of the Board shall be nominated by the Council and other two Members shall be nominated by the Central Government.

44. The Board shall perform the following functions, namely:—

Functions of Board.

(a) to fix standards for the services provided by the members of the Institute;

(b) to review the quality of services provided by the members of the Institute including actuarial audit services; and

(c) to guide the members of the Institute to improve the quality of services and adherence to the various statutory and other regulatory requirements.

Procedure of Board.

45. The Board shall follow in its meeting and in discharging its functions such procedure as may be prescribed.

Terms and conditions of Chairperson and Members of Board.

46. The terms and conditions of service of the Chairperson and the Members of the Board, their place of meetings, remuneration and allowances shall be such as may be prescribed.

Expenditure of Board.

47. The expenditure of the Board shall be borne by the Council.

CHAPTER VIII

DISSOLUTION OF THE ACTUARIAL SOCIETY OF INDIA REGISTERED
UNDER THE SOCIETIES REGISTRATION ACT

Dissolution of
Actuarial Society of
India.

48. On the appointed day,—

(a) the Society known as the Actuarial Society of India registered under the Societies Registration Act, 1860 and the Bombay Public Trusts Act, 1950 shall stand dissolved and thereafter no person shall make, assert or take any claims or demands or proceedings against the dissolved society or against any officer thereof in his capacity as such officer except in so far as may be necessary, for enforcing the provisions of this Act;

21 of 1860.
Bombay Act XXXIX
of 1950.

(b) the right of every member to, or in respect of, the dissolved society shall be extinguished, and thereafter no member of the society shall make, assert or take any claims or demands or proceedings in respect of that society except as provided in this Act.

Provisions
respecting
employees of
dissolved society.

49. (1) Every person employed in the dissolved society and continuing in its employment immediately before the commencement of this Act shall, as from such commencement, become an employee of the Institute, shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to retirement benefits as he would have held the same under the dissolved society if this Act had not been passed, and shall, continue to do so unless and until his employment in the Institute is terminated or until his remuneration, terms and conditions of employment are duly altered by the Institute.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any employee of the dissolved society to the Institute shall not entitle any such employee to any compensation under that Act or other law, and no such claims shall be entertained by any court, tribunal or other authority.

14 of 1947.

CHAPTER IX

MISCELLANEOUS

Maintenance of
more than one
offices by Actuary.

50. (1) Where an Actuary in practice or a firm of such Actuaries has more than one offices within or outside India, each one of such offices shall be in the separate charge of a fellow member of the Institute:

Provided that the Council may in suitable cases exempt any Actuary in practice or firm of such Actuaries from the operation of this sub-section.

(2) Every Actuary in practice or a firm of such Actuaries maintaining more than one office shall send to the Council a list of offices and the person in charge thereof and shall keep the Council informed of any changes in relation thereto.

Reciprocity.

51. (1) Where any country, notified by the Central Government in this behalf in the Official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute or from practicing the profession of Actuaries or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practice the profession of Actuaries in India.

(2) Subject to the provisions of sub-section (1), the Council may specify the conditions, if any, subject to which foreign qualifications relating to actuarial science shall be recognised for the purposes of entry in the register.

52. (1) For the purposes of this Act, the Central Government may, from time to time, give to the Council such general or special directions as it thinks fit, and the Council shall, in the discharge of its functions under this Act, comply with such directions.

Power of Central Government to issue directions.

(2) If, in the opinion of the Central Government, the Council has persistently made default in giving effect to the directions issued under sub-section (1), it may, after giving an opportunity of being heard to the Council, by notification, dissolve the Council, whereafter a new Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be decided by the Central Government.

(3) Where the Central Government has issued a notification under sub-section (2) dissolving the Council, it may, pending the constitution of a new Council in accordance with the provisions of this Act, authorise any person or body of persons to take over the management of the affairs of the Council and to exercise such functions as may be mentioned in the notification.

53. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council or the Disciplinary Committee or the Tribunal or the Authority or the Board or the Prosecution Director or any officer of that Government, Council, Committee, Tribunal, Authority or Board, for anything which is in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.

Protection of action taken in good faith.

54. The Chairperson, Presiding Officer, Members and other officers and employees of the Authority, Tribunal and Board, and the Prosecution Director shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, etc., to be public servants.

45 of 1860.

55. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of election and nomination in respect of members to the Council under sub-section (2) of Section 12;

(b) the terms and conditions of service of the Presiding Officers and Members of the Tribunal, place of meeting, remuneration and allowances to be paid to them under sub-section (3) of Section 16;

(c) the procedure of inquiry and submission of report by the Disciplinary Committee under sub-section (2) of Section 26;

(d) the procedure of inquiry by the Prosecution Director under sub-section (2) of Section 27;

(e) any act or omission which may be determined as professional misconduct under section 31;

(f) the procedure to be followed by the Board in its meetings and discharging its functions under Section 45; and

(g) terms and conditions of service of the Chairman and Members of the Board under Section 46.

Power to make regulations.

56. (1) The Council may, with the previous approval of the Central Government and subject to the previous publication, by notification in the Official Gazette, make regulations to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the examination and training for the purposes of clauses (b), (c) and (d) of sub-section (1) of Section 6;

(b) the manner of making an application under sub-section (3) of Section 6;

(c) the fees payable under sub-section (3) of section 6, sub-section (2) of Section 9, clause (a) of sub-section (2) of Section 19, sub-section (4) of Section 23;

(d) the manner in which the honorary member may be chosen under sub-section (1) of Section 8;

(e) the terms and conditions on which an affiliate member may be admitted under sub-section (2) of Section 8;

(f) the academic qualifications for admission of a student member under sub-section (3) of Section 8;

(g) qualifications required for a certificate of practice under sub-section (1) and the form in which an application may be made under sub-section (2) of Section 9;

(h) the transaction of business by the Council for the discharge of its functions mentioned in sub-section (2) of Section 19;

(i) terms and conditions of the services under sub-section (1) of Section 20;

(j) the functions and conditions of the committees under sub-section (3) of Section 21;

(k) the manner in which the register of the members of the Institute and other particulars to be maintained under sub-sections (1) and (2) of Section 23;

(l) the manner in which the annual list of members of the Institute may be published under sub-section (3) of Section 23;

(m) the conditions and requirements and payment of fee for re-entry in the register under section 25;

(n) salaries and allowances and conditions of service of the officers and other staff members of the Authority under sub-section (2) of Section 35;

(o) the conditions subject to which foreign qualifications may be recognised under sub-section (2) of Section 51; and

(p) any other matter which is required to be, or may be, prescribed under this Act.

Power of Central Government to issue directions for making or amending regulations.

57. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Council.

58. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

(See section 31)

PART I

Professional misconduct in relation to members of the Institute in practice

An Actuary in practice shall be deemed to be guilty of professional misconduct, if

(1) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or

(2) pays by way of remuneration to an employee, pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner; or

(3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India; or

(4) secures either through the services of a person who is not an employee of such Actuary or who is not qualified to be his partner or by means which are not open to an Actuary, any professional business; or

(5) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing; or

(6) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profit or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act; or

(7) engages in any business or occupation other than the profession of Actuaries unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle an Actuary from being a director of a company; or

(8) accepts a position as an actuary previously held by some other Actuary in practice in such conditions as to constitute under cutting; or

(9) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any valuation report or financial statement; or

(10) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force; or

(11) certifies or submits in his name, or in the name of his firm, a valuation report or a financial statement unless the examination of such statement and the related records has been made by him or by a partner or an employee in his firm or by another Actuary in practice; or

(2) expresses his opinion or valuation reports or financial statements of any business or any enterprise in which he, his firm, or a partner in his firm has a substantial interest, unless he has disclosed the interest also in his report; or

(13) fails to disclose a material fact known to him in a valuation report or a financial statement, but disclosures of which is necessary to make the valuation report or the financial statement not misleading where he is concerned with such valuation report or the financial statement in a professional capacity; or

(14) fails to report a material misstatement known to him to appear in a valuation report or financial statement with which he is concerned in a professional capacity; or

(15) is grossly negligent in the conduct of his professional duties; or

(16) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf; or

(17) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

PART II

Professional misconduct in relation to the members of the Institute in service

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person,—

(1) pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him; or

(2) accepts or agrees to accept any part of fees, profits or gains by way of commission or gratification; or

(3) discloses confidential information acquired in the course of his employment except as and when required by law or except as permitted by his employer.

PART III

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(1) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false; or

(2) not being a fellow member of the Institute acts himself as a fellow member of the Institute; or

(3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees; or

(4) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (1) of sub-section (2) of section 19; or

(5) is guilty of such other act or omission as may be specified by the Council.

PART IV

Other misconduct in relation to member of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if—

(A) (1) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;

(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as result of his action whether or not related to his professional work;

(B) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.

THE GOVERNMENT SECURITY ACT, 2006**ARRANGEMENT OF SECTIONS****SECTIONS**

1. Short title, application and commencement.
2. Definitions.
3. Forms of Government securities.
4. Subsidiary general ledger account.
5. Transfer of Government securities .
6. Holding of Government securities by holders of public offices.
7. Recognition of title to Government security of deceased joint holder or joint holders.
8. Right of survivors of joint holders or several payees.
9. Nomination by holders of Government securities.
10. Government securities belonging to minor or insane person.
11. Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution.
12. Summary determination by Bank of title to Government security in case of dispute.
13. Law applicable in regard to Government securities.
14. Postponement of payments and registration of transfers pending the making of vesting order.
15. Power of Bank to require bonds.
16. Publication of notices in Official Gazette.
17. Procedure and scope of vesting order.
18. Legal effect of orders made by Bank.
19. Stay of proceedings on order of Court.
20. Cancellation by Bank of vesting proceedings.
21. Discharge in respect of interest on Government securities.
22. Discharge in respect of bearer bonds.
23. Period of limitation of Government's liability in respect of interest.
24. Inspection of documents.
25. Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents and as evidence.

26. Bank and its officers to be public officers.
27. Misuse of subsidiary general ledger account facility.
28. Pledge, hypothecation or lien.
29. Power to call for information, inspection and issue directions.
30. Contravention and penalties.
31. Certain laws not to apply to Government securities.
32. Power to make regulations.
33. Construction of references to laws not in force in Jammu and Kashmir.
34. Power to remove difficulties.
35. Repeal and saving.

THE GOVERNMENT SECURITIES ACT, 2006

(AS PASSED BY THE HOUSES)

An

Act

to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in Articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of Article 252 of the Constitution, resolutions have been passed by the Houses of the Legislatures of all the States, except the Legislature of the State of Jammu and Kashmir, to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Government Securities Act, 2006.

(2) This Act applies to Government securities created and issued whether before or after the commencement of this Act by the Central or a State Government.

(3) It applies in the first instance to whole of the States, except the State of Jammu and Kashmir, and to all the Union territories and it shall also apply to the State of Jammu and Kashmir which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

Short title,
application and
commencement.

(4) It shall come into force in all the States, except the State of Jammu and Kashmir, and in the Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and in the State of Jammu and Kashmir which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act, comes into force in such State or Union territory.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “agent” means a scheduled bank within the meaning of clause (e) of Section 2 of the Reserve Bank of India Act, 1934, or any other person specified as such;

2 of 1934.

(b) “Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

2 of 1934.

(c) “bond ledger account” means an account with the Bank or an agent in which the Government securities are held in a dematerialised form at the credit of the holder;

(d) “constituents’ subsidiary general ledger account” means a subsidiary general ledger account opened and maintained with the Bank by an agent on behalf of the constituents of such agent;

(e) “Government”, in relation to any Government security, means the Central or State Government issuing the security;

(f) “Government security” means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette and having one of the forms mentioned in section 3;

(g) “prescribed” means prescribed by regulations made under this Act;

(h) “promissory note” includes a treasury bill;

(i) “specified” means specified by the Bank in the Official Gazette.

Forms of Government securities.

3. A Government security may, subject to such terms and conditions as may be specified, be in such forms as may be prescribed or in one of the following forms, namely:—

(i) a Government promissory note payable to or to the order of a certain persons; or

(ii) a bearer bond payable to bearer; or

(iii) a stock; or

(iv) a bond held in a bond ledger account.

Explanation.—For the purpose of this section, “stock” means a Government security,—

(i) registered in the books of the Bank for which a stock certificate is issued; or

(ii) held at the credit of the holder in the subsidiary general ledger account including the constituents subsidiary general ledger account maintained in the books of the Bank, and transferable by registration in the books of the Bank.

Subsidiary general ledger account.

4. (1) A subsidiary general ledger account including a constituents' subsidiary general ledger account and a bond ledger account may be opened and maintained by the Bank subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed.

45 of 1988.

(2) Notwithstanding anything contained in the *Benami* Transactions (Prohibition) Act, 1988, or any other law for the time being in force, the Government securities may be held on behalf of a constituent in a constituents' subsidiary general ledger account under sub-section (1) and the holder of such account shall be deemed to be the holder of the securities held in that account:

Provided that the constituent as a beneficial owner of the Government security shall be entitled to claim from the holder all the benefits and be subjected to all the liabilities in respect of the Government securities held in the constituents' subsidiary general ledger account.

(3) The holder of a constituents' subsidiary general ledger account shall maintain such records and adopt such procedure for safeguarding the interests of the constituents as may be specified.

5. (1) No transfer of a Government security shall be valid if it does not purport to convey the full title to the security.

Transfer of Government securities.

(2) The transfer of the Government securities shall be made in such form and in such manner as may be prescribed.

(3) Any document relating to a Government security or any endorsement on a promissory note issued by the Government may, on the demand of a person who for any reason is unable to write, shall be executed on his behalf in such manner as may be prescribed.

(4) Nothing in this section shall affect any order made by the Bank under this Act, or any order made by a Court upon the Bank.

6. (1) In the case of any public office to which the Government may, by notification in the Official Gazette, declare this sub-section to apply, a Government security may be held in the name of the office.

Holding of Government securities by holders of public offices.

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office where a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner laid down in Section 5.

(4) Where the holder of the office is temporarily absent for more than a fortnight from his office for any reason, he may authorise in writing such other person, who would be incharge of this office during the period of such absence, to effect transfer of the Government securities.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

39 of 1925.

7. (1) Subject to the provisions of sub-sections (2) and (3), if on the death of a sole holder or death of all the joint holders of a Government security there is no nomination in force, the executors or administrators of the deceased sole holder or all the deceased joint holders, as the case may be, or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 shall be the only person who may be recognised by the Bank as having any title to the Government security.

Recognition of title to Government security of deceased sole holder or joint holders.

(2) Nothing contained in this section shall bar the recognition by the Bank of any person as having a title to a Government security on the basis of a decree, order or direction passed by a competent court declaring the person as having title to the Government security or appointing a receiver to take possession of a security or on the basis of a certificate issued or order passed by any other authority who might have been empowered under any statute to confer on any such person a title to the Government security or on the basis of such other documents as may be prescribed.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, where the outstanding value of Government security held by a deceased sole holder or deceased joint holders, as the case may be, does not exceed an amount of rupees one lakh or such higher amount not exceeding rupees one crore as may be fixed by the Central Government by notification in the Official Gazette from time to time, the Bank may recognise a person as having title to such Government security of the deceased sole holder or deceased joint holders in such manner and subject to such conditions as may be prescribed.

Right of survivors of joint holders or several payees.

8. Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 and subject to the provisions of sections 7 and 10,—

9 of 1872.

(a) when a Government security is held by two or more persons jointly, and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those persons; and

(b) when a Government security is payable to two or more persons severally and either or any of them dies, the Government security shall be payable to the survivor or survivors of those persons or to the representative of the deceased or to any one of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased joint holder or deceased holders of a Government security or a surviving joint holder or holders of a Government security, as the case may be, may have against the survivor or survivors or representatives under or in respect of any Government security to which this section applies.

Explanation.—For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

1 of 1872.

2 of 1912.

Nomination by
holders of
Government
securities..

9. (1) Notwithstanding anything contained in Sections 7 and 8 or any other law for the time being in force, except the provisions of sub-section (2),—

(a) where a Government security other than in the form of promissory note or bearer bond is held by a person in his name or jointly with any other name or names, as the case may be, the sole holder or all the joint holders of the Government security together may nominate one or more persons in such form and in such manner as may be prescribed, who in the event of the death of the sole holder or the death of all the joint holders, as the case may be, would become entitled to the Government security and to payment thereon to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner;

(b) where a nomination in respect of a Government security has been made in favour of two or more nominees and either or any of them is dead, the surviving nominee or nominees, as the case may be, shall be entitled to the Government security and payment thereon;

(c) where the nominee is a minor, it shall be lawful for the sole holder or all the joint holders of a Government security, as the case may be, to appoint in the prescribed manner any person in whom the Government security would be deemed to have vested in the event of death of such holder or joint holders of the Government security during the minority of the nominee;

(d) the recognition of right and claim of the nominee or nominees to the Government security held by a sole holder or joint holders, as the case may be, and any payment made by the Government or the Bank to the nominee or nominees shall constitute a full discharge and shall absolve the Government or the Bank of its liability in respect of the said Government security.

(2) Any nomination or appointment made under sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, if all the nominees predecease the holder or joint holders of the Government security making the nomination.

(3) Where the amount due for the time being on a Government security is payable to two or more nominees and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those nominees and the amount for the time being due thereon shall be paid accordingly.

(4) A transfer of a Government security made in accordance with sub-section (2) of section 5 shall automatically cancel the nomination previously made:

Provided that where a Government security is in the possession of a person either as a pledge or by way of security for any purpose, such possession shall not have the effect of cancelling the nomination, but the right of the nominee shall be subject to the right of the person so possessing it.

(5) The Government may, on the recommendation of the Bank, by notification in the Official Gazette, extend the facility of nomination to any Government security as may be specified therein.

(6) Nothing contained in sub-section (1) shall affect the right or claim which any person may have against the person whose right and title to a Government security is recognised by the Government or the Bank or to whom the payment of the amount due on the Government security is made by the Government or the Bank under sub-section (1).

(7) No notice of any claim of any person, other than the person or persons in whose name a Government security is held or the nominees thereof, shall be receivable by the Bank or the Government, nor shall the Bank or the Government be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such Government security is produced before the Bank or the Government, the Bank or the Government shall take due note of such decree, order, certificate or other authority.

10. (1) Where any Government security is held on behalf of a minor, the payment of the same for the time being due on a Government security either by way of outstanding principal or interest thereon may be made to the father or mother of such minor and where neither parent is alive or where the living parents are or only living parent is incapable of action, to a person entitled under the law for the time being in force to have care of the property of the minor.

Government securities belonging to minor or insane person.

(2) When a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount not exceeding rupees one crore as the Central Government may, by a notification in the Official Gazette from time to time, fix, the Bank may make such order as it thinks fit for the vesting of such Government security in such person as it considers represents the minor or insane person.

11. (1) If the person entitled to a Government security applies to the Bank alleging that the Government security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or of mutilation of the Government security, and subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate Government security to the applicant.

Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution..

(2) If the person entitled to a Government security applies to the Bank to have the Government security converted into a Government security of another form, or into a Government security issued in connection with another loan or to have it consolidated with other like Government securities, or to have it sub-divided, or to have it renewed, stripped or reconstituted, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the Government security and order the issue of a new Government security or Government securities.

*Explanation,—*A Government security may be stripped separately for interest and principal or reconstituted on the application of the holder subject to such terms and conditions as may be specified.

(3) The person to whom a duplicate Government security or a new Government security is issued under this section shall be deemed for the purposes of section 18 to have been recognised by the Bank as the holder of the Government security; and a duplicate Government security or new Government security so issued to any person shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him:

Provided that the issue of new security under this section shall not affect the interest of third parties in whose favour a charge or other interest was lawfully created and was subsisting at the time of issue of the new security.

Summary
determination by
Bank of title to
Government
security in case of
dispute.

12. (1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine, in accordance with such regulations as may be made, the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce and the District Magistrate so requested may either himself record, or may direct any Executive Magistrate empowered in this behalf by general or special order of the State Government to record the evidence, and shall forward a copy thereof to the Bank.

(3) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(4) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

Law applicable in
regard to
Government
securities.

13. Notwithstanding that as a matter of convenience, the Government may have arranged for payments on a Government security to be made elsewhere than in India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of India.

Postponement of
payments and
registration of
transfers pending
the making of
vesting order.

14. Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the Government security, or postpone the making of any order under section 7, section 10, section 11 or section 12 or the registration of any transfer of the Government security, as the case may be, until the vesting order has been made.

Power of Bank to
require bonds.

15. (1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute an indemnity bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the indemnity bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the indemnity bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the indemnity bond or realise the security to the extent of such claim.

16. Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the Official Gazette or the Official Gazette of a State, according as the notice relates to a Government security, issued by the Central Government or a State Government, and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

Publication of notices in Official Gazette.

17. (1) The Bank shall, while making a vesting order under Section 7, section 10, section 11 or section 12, follow such procedure as may be prescribed.

Procedure and scope of vesting order.

(2) An order made by the Bank under this Act may either confer full title to a Government security or a title only to the accrued and accruing interest on the Government security pending a further order vesting full title.

18. No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to his personal liability to the rightful owner of the security for money had and received on his account.

Legal effect of orders made by Bank..

19. Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in India an order to stay the making of such order, the Bank shall either—

Stay of proceedings on order of Court.

(a) hold the security together with any interest unpaid or accruing thereon until further orders of the Court are received; or

(b) apply to the Court to have the security transferred to the Official Trustees appointed for the State in which such Court is situated, pending the disposal of the proceedings before the Court.

20. Where the Bank contemplates making an order under this Act vesting a Government security in any person, the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

Cancellation by Bank of vesting proceedings.

21. Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

Discharge in respect of interest on Government securities.

22. The Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment, an order of a Court in India has been served on the Government restraining it from making payment.

Discharge in respect of bearer bonds.

23. (1) Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable;

Period of limitation of Government's liability in respect of interest.

Provided that the Government may allow a *bonafide* claim for payment of interest after the expiry of the period of six years in those cases where the holders of securities could not prefer their claims within the said period of six years.

(2) Notwithstanding anything contained in sub-section (1), the Bank may specify the securities in respect of which, the circumstances under which, and the terms and conditions subject to which, interest may be paid even after the expiry of the period specified in the said sub-section.

24. No person shall be entitled to inspect or to receive information derived from any Government security in the possession or custody of the Government or from any book, register or other document kept or maintained by or on behalf of the Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

Inspection of documents.

25. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, magnetic tape or any other form of mechanical or electronic

¹ data retrieval mechanism (hereinafter referred to as a computer print out), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question, shall be deemed to be also a document for the purposes of this Act and the regulations made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer print out shall be the following, namely:—

(a) the computer print out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents of evidence.

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceeding under this Act and the regulations made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in the Bank in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate), shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.—For the purposes of this section,—

(a) “computer” means any electronic, magnetic, optical or other high-speed data processing service device or system which performs logical, arithmetical and memory functions by manipulation of electronic, magnetic or optical impulses and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

(b) “computer print out” shall include ledgers, day-books, account books and other records, maintained in the ordinary course of business of the Bank or of the agent, printed on paper from the information stored in the computer or derived from such information; and

(c) any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

1 of 1872.
5 of 1908.

26. For the purposes of section 124 of the Indian Evidence Act, 1872, the provisions of Part IV of the Code of Civil Procedure, 1908 relating to suits by or against public officers in their official capacity, and the provisions of Rule 27 of Order V, and Rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

Bank and its officers to be public officers.

27. Where a subsidiary general ledger account is opened by the Bank in favour of any holder of a Government security in terms of section 4 and,—

Missuse of subsidiary general ledger account facility.

(a) it comes to the notice of the Bank that the said account is being operated contrary to the terms and conditions subject to which the account was opened; or

(b) the subsidiary general ledger account transfer form has bounced due to insufficiency of Government security or funds; or

(c) the Bank is of opinion that the account is being operated contrary to the banking practice or in a manner prejudicial to the interests of the holders of Government securities in general; or

(d) the subsidiary general ledger account is being misused in any manner, the Bank may, by order in writing, after giving an opportunity of being heard, debar the holder of such account from trading with the subsidiary general ledger account facility temporarily or permanently as it deems fit.

Pledge
hypothecation or
lien.

28. (1) Subject to such terms and conditions as may be prescribed, the holder of a Government security may create a pledge or hypothecation or lien in respect of such security.

(2) On receipt of notice of pledge or hypothecation or lien from the holder of the Government security, the Bank or any agent maintaining the account in respect of such security shall make necessary entry in its record and such entry shall be evidence of the pledge, hypothecation or lien thereof, as the case may be.

Power to call for
information, cause
inspection and
issue directions.

29. (1) The Bank may at any time, for the purposes of this Act, call for such information as it deems necessary in relation to a Government security from any agent, or holder of subsidiary general ledger account including constituents' subsidiary general ledger account and cause an inspection or scrutiny to be made by one or more of its officers or other persons, of any agent or holder of a subsidiary general ledger account including constituents' subsidiary general ledger account.

(2) The Bank may, if it considers necessary so to do, issue such directions as it thinks fit, in relation to a Government security,—

(i) to the holders of the subsidiary general ledger accounts including constituents' subsidiary general ledger account;

(ii) to the agents maintaining bond ledger account; and (iii) to any other person dealing with the Government securities, for carrying out the purposes of this Act.

Contravention and
penalties.

30. (1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

(3) Without prejudice to any other action which the Bank may deem fit to take, the Bank, after giving a reasonable opportunity of being heard, may impose on any person who contravenes any provision of this Act, or contravenes any regulation, notification or direction issued under this Act, or violates the terms and conditions for opening and maintenance of a subsidiary general ledger account, including constituents' subsidiary general ledger account, a penalty, not exceeding five lakh rupees and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after first day during which the contravention continues.

Certain laws not to apply to Government securities.

31. (1) The Public Debt Act, 1944 shall cease to apply to the Government securities to which this Act applies and to all matters for which provisions have been made by this Act.

(2) Notwithstanding such cessation anything done or any action taken in the exercise of any power conferred by or under that Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force at all material times.

(3) Nothing contained in the Depositories Act, 1996 or the regulations made thereunder shall apply to Government securities covered by this Act unless an agreement is executed to the contrary by any depository under the Depositories Act, 1996 with the Government or the Bank, as the case may be.

Power to make regulations..

32. (1) The Bank may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(a) the form in which and the terms and conditions subject to which the Government securities may be issued under Section 3;

(b) the form in which and the fee to be charged for opening and maintenance of subsidiary general ledger account including constituents' subsidiary general ledger account and bond ledger account by the Bank under sub-section (1) of Section 4;

(c) the form and manner in which Government securities shall be transferred under sub-section (2) of section 5 and the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write under sub-section (3) of that section;

(d) the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders under sub-section (2) of Section 7 and the manner in which and the conditions subject to which the Bank may recognise title to a Government security under sub-section (3) of that section;

(e) the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the Government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee under Section 9;

(f) the conditions governing the issue of duplicate Government securities and the fees to be paid therefor under Section 11;

(g) the manner in which the Bank may determine title to a Government security under Section 12;

- (h) the form of bond under sub-section (1) of Section 15;
- (i) the procedure for making vesting order referred to in sub-section (1) of Section 17;
- (j) the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under Section 24;
- (k) the terms and conditions subject to which pledge or hypothecation or lien be created under sub-section (1) of Section 28.

(3) Every regulation made by the Bank under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

33. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever, necessary, be constructed as including a reference to the corresponding law, if any, in force in that State.

Constructions of references to laws not in force in Jammu and Kashmir.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Indian Securities Act, 1920 is hereby repealed.

10 of 1920.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

A. K. SANGMA,
Under Secretary to the Govt. of Meghalaya,
Law (B) Department.